

125 SUMMER STREET BOSTON MA 02110-1618

T 617 443 9292 F 617 443 0004 WWW.BROMSUN.COM

BROMBERG ★ SUNSTEIN LLP

EDWARD J DAILEY
T 617 443 9292 x233
EDAILEY@BROMSUN.COM

May 21, 2007

By electronic filing and Messenger

Hon. Patti B. Saris
United States Judge
Suite 8110
John Joseph Moakley U.S. Courthouse
1 Courthouse Way
Boston, Massachusetts 02210

**Re The HipSaver Company, Inc. v J.T. Posey Company
Civil Action No. 05-10917 PBS**

Your Honor:

I write to make a personal request related to scheduling of the *HipSaver* trial. On March 27th, the parties jointly moved for a change in the trial date from June 4th until later in the summer. The reason for the Motion was that one of HipSaver's two expert witnesses, Dr. Hayes from Oregon, cannot be released from an obligation to testify in another lawsuit at trial from June 4th through June 15th. *See* document no. 220.

By Order dated April 5th, your Honor noted a likelihood that the court would be engaged for most of June in another case and that HipSaver would be placed on a rolling trial list. In what may have been an extreme case of wishful thinking, I then confirmed reservations for a 39th wedding anniversary trip to California from June 1st through June 6th.

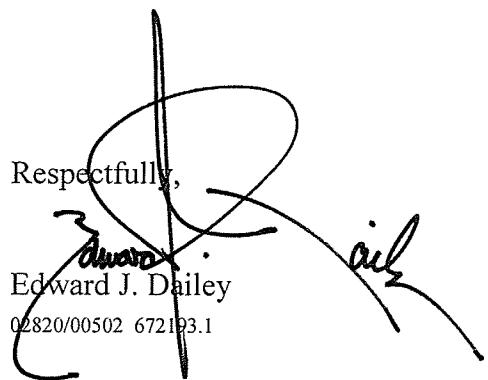
Recently, we learned that the court's trial schedule in June has changed and that *HipSaver* may be scheduled for trial to begin on June 4th or June 11th. As noted, June 4th creates a very personal conflict for me while June 11th leaves HipSaver without a key expert. However, we are working to arrange for video taping of Dr. Hayes in Portland, Oregon on June 9th as a fallback alternative.

Hon. Patti B. Saris
Page 2

That said, I respectfully request the court's indulgence and ask for trial to begin *other than the week of June 4th*.

I have discussed this matter with Mr. Morseburg; he is unable to assent to this request.

Respectfully,


Edward J. Dailey
02820/00502 672193.1

xc: Douglas G. Morseburg, Esq.
Anthony J. Fitzpatrick, Esq.